IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 13158 of 2004

Between:

A.Ramesh S/o Subrahmanyam Reddy,
Damarapakam Village, Nagari Mandal, Chittoor District.

..... PETITIONER

AND

1 The Revenue Divisional Officer, Chittoor , Chittoor District.
2 The Mandal Revenue Divisional Officer, Nagari Mandal,

Chittoor District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents in not allotting the stocks to the petitioner from the month of July 2004 for the Fair Price Shop of Damarapakam Village, Nagari Mandal, Chittoor District though the authorization given in favour of the petitioner is subsisting and the same is neither cancelled nor suspended without any notice and without passing any orders, as illegal, unjust, arbitrary and against the principles of natural justice, without any reason or basis, highhanded, misuse of official power motivated, malafide and against statutory provisions and consequently direct the respondents to allot stocks to the petitioner for the Fair Price Shop of Damarapakam Village, Nagari Mandal, Chittoor District till the authorization given in favour of the petitioner is in force.

Counsel for the Petitioner: MR.L.J.VEERA REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court made the following :

ORDER:

The petitioner is a Fair Price Shop dealer of Damarapakam Village, Nagari Mandal, Chittoor District. This Writ Petition is filed seeking a declaration that the action of the respondents in not allotting the stocks to the petitioner from the month of July, 2004, as arbitrary and illegal.

The specific case of the petitioner is that the authorization in his favour is subsisting, but, the respondents failed to release the essential commodities for distribution to the card holders without there being any justifiable reason.

This Court, by order dated 28-07-2004, while directing the learned Government Pleader for Civil Supplies to get instructions, granted interim directions to the respondents to allot stocks to the petitioner's fair price shop, if his authorization is subsisting as on the date of the order.

Now, a counter affidavit has been filed by the 2nd respondent-Mandal Revenue Officer, Nagari, stating that the authorization of the petitioner has been suspended by the Revenue Divisional Officer, Chittoor by proceedings dated 15-07-2004, pending enquiry into the alleged irregularities in distribution of commodities. However, since the dealer has refused to receive the orders, it was served by substitute service. It is further added that the stocks were allotted to the petitioner's fair price shop for the month of August, 2004 as per the interim directions of this Court dated 28-07-2004.

Learned counsel for the petitioner vehemently contended that the order of suspension, dated 15-07-2004, on the face of it, is ante dated and such an order has never been served on the petitioner. On the other hand, the learned Government Pleader appearing for the respondents submits that a copy of the order of suspension has now been served on the learned Counsel for the petitioner along with a counter-affidavit and the same being an appealable order, it would be appropriate for the petitioner to prefer an Appeal if he is aggrieved by the said order.

It is to be noted that the interim orders have been granted by this Court on 28-07-2004. If, as on that date, the authorization was not subsisting, there is no need for the respondents to release the essential commodities in favour of the petitioner. In the circumstances, though I find force in the contention of the learned Counsel for the petitioner that the order of suspension is ante-dated, keeping in view the subsequent events and particularly now that there is an order of suspension of authorization, I am of the view that this writ petition has been rendered infructuous and that it would be appropriate to leave it open to the petitioner to challenge the said order by availing an appropriate remedy.

Accordingly, the Writ Petition is disposed of granting leave and liberty to the petitioner to challenge the order of suspension, dated 15-07-2004 by working out the appropriate remedy as available under law. In view of the peculiar facts and circumstances of the case, I am of the view that the ends of justice would be met if the petitioner is permitted to distribute the essential commodities for the month of September, 2004. Accordingly, there shall be a direction to the respondents to release the essential commodities to the petitioner for the month of September, 2004 for distribution to the cardholders.

Writ Petition is accordingly disposed of. No costs.

_____

15-09-2004

Note: Issue C.C in 4 days.

B/o.

vs

To

1 The Revenue Divisional Officer, Chittoor , Chittoor District.
2 The Mandal Revenue Divisional Officer, Nagari Mandal,

Chittoor District.

3 Two CCs to the G.P for Civil Supplies, High Court Buildings,

Hyderabad(O.U.T).

4 Two CD copies.